

1 Keith J. Tierney
Trustee
2 10580 N. McCarran Blvd., Bldg. 115-403
Reno, NV 89503
3 (775) 622-3850

E-Filed 10/12/2010

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6 **UNITED STATES BANKRUPTCY COURT**
7 **DISTRICT OF NEVADA**

8 IN RE: CASE NOS. BK-N-09-52177-GWZ
BK-N-09-52178-GWZ
9 WES CONSTRUCTION COMPANY, BK-N-09-52181-GWZ
INC., a Nevada corporation, (Jointly administered under 09-52177)

10 HEAVY EQUIPMENT SERVICES, CHAPTER 7
11 LLC
A Nevada limited liability company,

12 TRUCKING SERVICES, LLC,
13 A Nevada limited liability company,

14 Debtors.

**DECLARATION OF STEVE
BENNYHOFF IN SUPPORT OF
TRUSTEE'S RESPONSE TO
MOTION FOR ORDER
RECONSIDERING THIS COURT'S
JULY 9, 2010 "ORDER" TO
APPROVE SUPPLEMENTAL
APPLICATION TO PAY MONTHLY
AND TO PAY APRIL FEES AND
COSTS (F.R.Bankr.P. 2016)**

Hearing Date: 10/22/2010
Hearing Time: 10:00 a.m.

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18 _____ /
19 Steve Bennyhoff, under penalty of perjury of the laws of the United States,
20 declares:

21 1. This Declaration is submitted in accordance with F.R.Bankr.P. 2016 and
22 further to my earlier Declaration at **DE 336**.

23 2. At the time the Trustee was appointed, I had been performing services for
24 WES during the chapter 11 case. Mark Smith, then acting as chairman of the board of
25 WES Construction hired me on an hourly basis because the former financial officer,
26 Michael Brandt had resigned in late August or early September 2009.

27 3. As noted in the my earlier Declaration, **DE 336**, Mr. Tierney engaged me to
28 perform basic accounting services for the estate to fulfill his duties under §704(a). The

1 list of duties included but has not been limited to the following:

- 2 • Made calculations and booked journal entries adjusting the accounts for the
- 3 items sold at the Ritchie Bros. and Lightning auctions.
- 4 • Located the hard copy payroll records and created spreadsheets to capture
- 5 the weekly payroll totals to be able to prepare W-2s, as well as capture payment
- 6 information for 1099s.
- 7 • Purchased software and supplies, then created, printed and mailed W-2's
- 8 and 1099's.
- 9 • Terminated AT&T land and wireless lines still active in February.
- 10 • Terminated licenses, policies, and services no longer needed by WES
- 11 Construction.
- 12 • Interfaced with insurance companies and State agencies to provide data to
- 13 assist with year-end information reporting and audits.
- 14 • Reconciled Heritage Bank checking accounts and Hartman Trust account to
- 15 WES Construction general ledger.
- 16 • Interfaced with Lisa and Kandi on an on-going basis to help answer
- 17 questions and review
- 18 • Facilitated the boxing and return of WES Construction's mailing machine
- 19 to Pitney Bowes.

20 4. The Trustee has several significant tasks remaining to be accomplished and I
21 believe my familiarity with the history of these matters would enable the Trustee to
22 complete those tasks at a more cost effective and efficient level than will result if the
23 Trustee is required to engage someone new, unfamiliar with the rather tortured history of
24 this case. The major areas in which I believe I can be of great assistance to the Trustee
25 are:

- 26 • Coordinate with R Construction in preparing an income statement that
- 27 determines the net profit resulting from Roy Walker's completion of the utility
- 28 contracts that were unfinished as of 9/1/09.

- Reconstruct from hardcopy reports financial information for WES Construction to enable the accounting firm to prepare financial statements and tax returns for 2009.
- Calculate profit/loss on the sale and book journal entries for WES Trucking, Inc. auction items.
- Prepare trial balances for 2008 and 2009 for WES Trucking, Inc. and Commercial Snow Clearing LLC to give to accounting firm for preparation and tax return filing.
- If requested, compile data to provide to ING to be able to conduct non-discrimination tests and prepare Form 5500 for the 401K program.
- Continue to respond to requests for information in regards to unemployment claims, audits of payroll information for 2009 from Nevada and California, sales and use tax report, and various other requests until no longer necessary.

5. Attached hereto are invoices 1 through 10 covering the pre-conversion time period between September 29, 2009 and the conversion date of December 8, 2009. Invoices 11, 12 and 13 cover the period from the conversion to the time the Trustee was appointed on January 7, 2010. These invoices provide the detail of services performed by me at the direction of Mark Smith when he was acting as the chairman of the board of WES prior to the time the case was converted to chapter 7 and up to the time Mr. Tierney was appointed.

Dated this 12th day of October, 2010.

Steve Bennyhoff
Steve Bennyhoff

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INVOICE

Steve Bennyhoff
 2835 Santa Ana Drive
 Reno, NV 89502-4929

Date	Invoice No.
10/1/2009	1

Bill To: WES Construction
 415 Parr Circle
 Reno, NV 89512

Quantity	Date	Description	Price Each	Amount
4 Hours	9/29/2009	Spoke with M. Smith, D. Grills, J. Hartman, T. Averill Review Agilis software Review Past Due statements	\$ 80.00	\$ 320.00
4 Hours	9/30/2009	Spoke with L. Ohlhauser about situation Accessed Spectrum. Learned how to navigate in menus. Compared outstanding payables to state- ments. Saved July and August 2009 check registers to Excel	\$ 80.00	\$ 320.00
4 Hours	10/1/2009	Worked to reconcile the July, 2009 Statement of Operations to the financial statements	\$ 80.00	\$ 320.00
TOTAL				\$ 960.00

INVOICE

Steve Bennyhoff
 2835 Santa Ana Drive
 Reno, NV 89502-4929

Date	Invoice No.
10/8/2009	2

Bill To: WES Construction
 415 Parr Circle
 Reno, NV 89512

Quantity	Date	Description	Price Each	Amount
4 Hours	10/2/2009	Continue to review Spectrum to gather information for August, 2009 Statement of Operations for the court Reviewed Voluntary Petition of 7/6/09 Contacted Cheri Worsnop regarding Agilis	\$ 80.00	\$ 320.00
4.5 Hours	10/5/2009	Asked M. Brandt questions that arose from last week Discovered I was blocked from accessing Agilis Ran check register from 4/1/09 to present in Spectrum Reviewed financial information in Spectrum	\$ 80.00	\$ 360.00
4 Hours	10/6/2009	Printed out hard copy of financial statements for July - September , as well as journal entries made Reviewed stacks of documents to better understand the situation before and after the bankruptcy petition Left message for Mark Systems regarding Agilis	\$ 80.00	\$ 320.00
4 Hours	10/7/2009	Completed listing of checks written since 7/1/09 Spoke to Mark Worsnop regarding Agilis. He wants \$8200 for access to Agilis. Refused to meet face-to-face with Mark Smith and myself.	\$ 80.00	\$ 320.00
4 Hours	10/8/2009	Discovered discrepancies between my check registers and bank statements from Heritage Bank Need access to online MB bank information. Got contact information from M. Brandt	\$ 80.00	\$ 320.00
TOTAL				\$ 1,640.00

INVOICE

Steve Bennyhoff
 2835 Santa Ana Drive
 Reno, NV 89502-4929

Date	Invoice No.
10/15/2009	3

Bill To: WES Construction
 415 Parr Circle
 Reno, NV 89512

Quantity	Date	Description	Price Each	Amount
4 Hours	10/9/2009	Reconciled July Cash in Heritage Bank Payroll Acct The discrepancies were payroll checks drawn on the same check stock as trade payables	\$ 80.00	\$ 320.00
4 Hours	10/12/2009	Worked with Kandi on her first day back to work Researched accounts to answer question from Jeff Hartman regarding MB bank Compared activity in MB statements to Spectrum cash accounts	\$ 80.00	\$ 320.00
4 Hours	10/13/2009	Can't access MB accounts online, so have to rely on hardcopy repts that aren't all in one place MB has numerous accounts that I don't think are correctly reflected in Spectrum. Need to analyze further.	\$ 80.00	\$ 320.00
4 Hours	10/14/2009	Printed out Prepaid and Accrual accounts to try to determine journal entries needed for July to Sept. Tried to tie out month-end balances for MB Line of Credit from March thru September. Missing some of the information and am blocked for online access Can't tie out D. Grill's July, 2009 Accounts Receivable activity on the court report that was submitted previously	\$ 80.00	\$ 320.00
4 Hours	10/15/2009	Continued to analyze Accounts Receivable to figure out where Grill's numbers came from. Created Excel spreadsheet comparing July, 09 Income Statement balances to Grill's Statement of Operations. Analyzing the discrepancies	\$ 80.00	\$ 320.00
TOTAL				\$ 1,600.00

INVOICE

Steve Bennyhoff
 2835 Santa Ana Drive
 Reno, NV 89502-4929

Date	Invoice No.
10/22/2009	4

Bill To: WES Construction
 415 Parr Circle
 Reno, NV 89512

Quantity	Date	Description	Price Each	Amount
4.5 Hours	10/16/2009	Analyzed variances I had been working on. Analyzed all accounts having to do with Insurance. Created journal entries that need to be booked. Discussed backup of data and accessibility with T. Averill	\$ 80.00	\$ 360.00
4 Hours	10/19/2009	Researched issue for J. Hartman and responded with my answer Began to reconcile MB Cash accounts starting with May.	\$ 80.00	\$ 320.00
4 Hours	10/20/2009	Continued with MB Cash reconciliations. Figured out relationships between all MB accounts and Spectrum cash accounts. Creating journal entries to correct Spectrum accounts.	\$ 80.00	\$ 320.00
4 Hours	10/21/2009	Continued with MB Cash reconciliations.	\$ 80.00	\$ 320.00
4 Hours	10/22/2009	Continued with MB Cash reconciliations. Discussed expanding hours with Mark Smith. He agreed to more hours of work per day.	\$ 80.00	\$ 320.00
TOTAL				\$ 1,640.00

INVOICE

Steve Bennyhoff
 2835 Santa Ana Drive
 Reno, NV 89502-4929

Date	Invoice No.
10/29/2009	5

Bill To: WES Construction
 415 Parr Circle
 Reno, NV 89512

Hours	Date	Description	Price Each	Amount
2	10/22/2009	Additional hours above those charged on Invoice 4	\$ 80.00	\$ 160.00
5.5	10/23/2009	Worked on August, 2009 Statement of Operations for the court Entered journal entries to correct Insurance Expense, Prepaid Insurance, and Accrued Insurance for June and July	\$ 80.00	\$ 440.00
5.5	10/26/2009	Analyzed other prepaid accounts to determine additional journal entries needed Discussed equipment sale held last week with M. Brandt. He will provide spreadsheets to help me to make journal entries needed for asset disposal. Worked with Kandi to analyze Suspense account	\$ 80.00	\$ 440.00
6.5	10/27/2009	Worked with M. Brandt on journal entries needed to account for equipment sale activity Worked with Kandi on Suspense account again	\$ 80.00	\$ 520.00
4	10/28/2009	Completed August, 2009 Statement of Operations report and dropped it off at J. Hartman's office	\$ 80.00	\$ 320.00
6	10/29/2009	Reviewed stacks of papers to determine usefulness of information Accumulated hard copy bank statements to be able to reconcile bank accounts not completed yet. Created Statement of Operations reports for HES and TS and delivered them to J. Hartman	\$ 80.00	\$ 480.00
TOTAL				\$ 2,360.00

INVOICE

Steve Bennyhoff
 2835 Santa Ana Drive
 Reno, NV 89502-4929

Date	Invoice No.
11/9/2009	6

Bill To: WES Construction
 415 Parr Circle
 Reno, NV 89512

Hours	Date	Description	Price Each	Amount
6	11/2/2009	Created journal entries to clear Suspense account Met with M. Smith to discuss Aug, 09 Statement of Operations report	\$ 80.00	\$ 480.00
6	11/3/2009	Met with M. Smith and D. Clark at J. Hartman's office to discuss the Aug, 09 Statement of Operations report that I prepared Worked on status report of Cash and Receivables from 7/6/09 to 10/31/09 for J. Hartman	\$ 80.00	\$ 480.00
6	11/4/2009	Continued working on status report in preparation of 11/19/09 court hearing	\$ 80.00	\$ 480.00
5.5	11/5/2009	Completed Heritage Bank Cash Report thru October for court hearing	\$ 80.00	\$ 440.00
5	11/6/2009	Completed Heritage Bank DIP Report and Hartman Trust Account Report thru October for court hearing	\$ 80.00	\$ 400.00
TOTAL				\$ 2,280.00

INVOICE

Steve Bennyhoff
 2835 Santa Ana Drive
 Reno, NV 89502-4929

Date	Invoice No.
11/16/2009	7

Bill To: WES Construction
 415 Parr Circle
 Reno, NV 89512

Hours	Date	Description	Price Each	Amount
6	11/9/2009	Reviewed equipment sale documents of 10/16/09 and worked on creating the journal entry to record the sale	\$ 80.00	\$ 480.00
5.5	11/10/2009	Reviewed Spectrum manuals on Fixed Assets and Equipment Control Talked to Lisa about backing up the system on a daily basis again Reviewed 7/21/09 asset sale documents	\$ 80.00	\$ 440.00
4	11/11/2009	Reworked Heritage Bank Payroll Account reconciliation to reflect contributions from R. Walker that hadn't been properly recorded Met with M. Smith, D. Clark, and J. Hartman to discuss reports I had prepared for 11/19/09 court hearing	\$ 80.00	\$ 320.00
6.5	11/12/2009	Searched boxes for payroll records needed to be able to reconcile payroll account to Spectrum Worked w/Kandi to figure out entries needed to record R. Walker contributions for payroll	\$ 80.00	\$ 520.00
6	11/13/2009	Continue to reconcile payroll account month by month	\$ 80.00	\$ 480.00
TOTAL				\$ 2,240.00

INVOICE

Steve Bennyhoff
2835 Santa Ana Drive
Reno, NV 89502-4929

Date	Invoice No.
11/19/2009	8

Bill To: WES Construction
 415 Parr Circle
 Reno, NV 89512

Hours	Date	Description	Price Each	Amount
5.5	11/16/2009	Assist Kandi to develop journal entry to record R. Walker contributions Updated Cash Sources & Uses spreadsheet for J. Hartman Continue to reconcile payroll account	\$ 80.00	\$ 440.00
5.5	11/17/2009	Finished payroll account reconciliations thru October	\$ 80.00	\$ 440.00
5.5	11/18/2009	Booked journal entries needed thru October for insurance, suspense accounts and amortization	\$ 80.00	\$ 440.00
6	11/19/2009	Booked journal entries needed to accurately reflect the payroll activity in Spectrum thru October Began work to create journal entries for 10/16/09 equipment sale	\$ 80.00	\$ 480.00
TOTAL				\$ 1,800.00

INVOICE

Steve Bennyhoff
 2835 Santa Ana Drive
 Reno, NV 89502-4929

Date	Invoice No.
11/30/2009	9

Bill To: WES Construction
 415 Parr Circle
 Reno, NV 89512

Hours	Date	Description	Price Each	Amount
4	11/23/2009	Began to prepare September, 2009 Statement of Operations for the court Assisted G. Watts in accumulating titles to vehicles	\$ 80.00	\$ 320.00
5	11/24/2009	Continue working on Sept, 09 Statement of Operations Worked with Kandi to book entries for R. Walker contributions	\$ 80.00	\$ 400.00
3	11/25/2009	Finished Sept, 09 Statement of Operations report Worked with 7/21/09 equipment sale documents to begin to determine the journal entry needed to record the sale	\$ 80.00	\$ 240.00
TOTAL				\$ 960.00

INVOICE

Steve Bennyhoff
 2835 Santa Ana Drive
 Reno, NV 89502-4929

Date	Invoice No.
12/7/2009	10

Bill To: WES Construction
 415 Parr Circle
 Reno, NV 89512

Hours	Date	Description	Price Each	Amount
6.5	11/30/2009	Met with M. Smith to discuss future plans now that Chapter 11 is converting to Chapter 7 Moved out of D. Grill's old office to another office Helped M. Smith to move into same office	\$ 80.00	\$ 520.00
6	12/1/2009	Worked with MB Financial accounts to determine the link to Spectrum accounts. Need various statements from MB that are missing.	\$ 80.00	\$ 480.00
6	12/2/2009	M. Smith contacted MB Financial to try to get me access to online accounts, but no luck Began to work on October, 2009 Statement of Operations for the court	\$ 80.00	\$ 480.00
6	12/3/2009	Completed the journal entry needed to record the equipment sale for 7/21/09.	\$ 80.00	\$ 480.00
6	12/4/2009	Worked on journal entry needed for 10/16/09 equipment sale	\$ 80.00	\$ 480.00
TOTAL				\$ 2,440.00

INVOICE

Steve Bennyhoff
 2835 Santa Ana Drive
 Reno, NV 89502-4929

Date	Invoice No.
12/14/2009	11

Bill To: WES Construction
 415 Parr Circle
 Reno, NV 89512

Hours	Date	Description	Price Each	Amount
4.5	12/8/2009	Finished journal entry needed for 10/16/09 equipment sale	\$ 80.00	\$ 360.00
6	12/9/2009	When reconciling the asset subsidiary ledgers to the General Ledger, I found a discrepancy. I need to correct D. Grill's journal entry for the June equipment sale. Reworked D. Grill's journal entry	\$ 80.00	\$ 480.00
6	12/10/2009	Discovered no monthly depreciation has been booked since May. Began work to determine the correct monthly entry that ties to my asset disposal entries	\$ 80.00	\$ 480.00
6	12/11/2009	Set up Master Spreadsheet to calculate the monthly depreciation Corrected May depreciation entry	\$ 80.00	\$ 480.00
TOTAL				\$ 1,800.00

INVOICE

Steve Bennyhoff
2835 Santa Ana Drive
Reno, NV 89502-4929

Date	Invoice No.
12/21/2009	12

Bill To: WES Construction
 415 Parr Circle
 Reno, NV 89512

Hours	Date	Description	Price Each	Amount
4	12/15/2009	Finished booking monthly depreciation thru October	\$ 80.00	\$ 320.00
2	12/17/2009	Met with M. Smith, D. Clark, & R. Walker to discuss issues regarding the finalization of Roy's purchase of assets of WES Construction R. Walker presented me an accounting between 9/1/09 and 12/2/09 to determine profit/loss to be split between Roy and WES Construction for utility contracts	\$ 80.00	\$ 160.00
5.5	12/18/2009	Booked a final journal entry to get monthly depreciation in balance with General Ledger Finished October, 2009 Statement of Operations and dropped it off at J. Hartman's office.	\$ 80.00	\$ 440.00
TOTAL			\$	920.00

INVOICE

Steve Bennyhoff
 2835 Santa Ana Drive
 Reno, NV 89502-4929

Date	Invoice No.
1/11/2010	13

Bill To: WES Construction
 % Keith Tierney, Trustee
 415 Parr Circle
 Reno, NV 89512

Hours	Date	Description	Price Each	Amount
4.5	1/4/2010	Reconciled Heritage Bank Payroll Account for Nov. Booked journal entries needed to update the Spectrum cash account Began to reconcile Hartman Trust Account	\$ 80.00	\$ 360.00
5.5	1/5/2010	Finished reconciling Hartman Trust Account thru 12/11/09 Met with K. Tierney, M. Smith, and D. Clark at J. Hartman's office to discuss bankruptcy issues	\$ 80.00	\$ 440.00
5.5	1/6/2010	Met with K. Tierney at my office to discuss needs to move bankruptcy forward Helped attorney from Las Vegas representing WES Construction in lawsuit by finding insurance information to provide to her Lisa gave me box of correspondence that has accumulated since she is no longer on WES Construction payroll. She and Kandi will no longer be able to provide assistance on WES issues.	\$ 80.00	\$ 440.00
5	1/7/2010	Provided list of outstanding issues that remain for WES Construction for K. Tierney and J. Hartman Compiled list of correspondence that needs to be addressed from box from Lisa.	\$ 80.00	\$ 400.00
TOTAL				\$ 1,640.00